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Current Topics.

Recorders.

In his charming biography of Lord Ardwall, a former judge of the Court of Session, Mr. John Buchan, himself a member of the Bar, although he has for many years abandoned its practice for the more seductive attractions of literature and the strenuous work of the House of Commons, says that one of the merits of Scottish legal institutions is that a successful lawyer *en route* for the Bench is given an opportunity of acquiring the judicial mind by administering subordinate jurisdiction, whereas in England, he went on to say, counsel could serve no similar apprenticeship in judicial work. For the moment Mr. Buchan has forgotten the office of Recorder, to which, by the way, during the past weeks several appointments have been made on the recommendation of the Home Secretary. It is true that the Recorder is for the most concerned with criminal jurisdiction, whereas in Scotland the Sheriff Principal exercises both civil and criminal jurisdiction and, except in the Sheriffdoms of the Lothians and Lanark, is not debarred from private practice. But nevertheless the class of work falling to the Recorder offers the opportunity of displaying those judicial qualities so essential to success and forms a useful preparation for the Bench of the High Court or the county court. As is the case with so many other titles held by public officials in England, that of Recorder cannot be said to be self-elucidatory. Presumably at one time in the far-distant past, one of the duties falling to him was the entering the doings of the court over which he presided in a register, but if that was so, this has long been transferred to other officials, and the functions of the Recorder are now almost exclusively judicial.

The Original Court of Appeal.

One of the tentative recommendations of the second report of the Business of the Courts Committee, which has encount ered much hostile criticism from the profession, is the proposed revival of what the report describes as a "wholesome characteristic of the Common Law Procedure before the Judicature Acts, viz., that the same judges did appellate work and also sat as judges of first instance." A thing which was originally wholesome may turn out to be inconvenient. The proposal is to apply the plan adopted for the constitution of the Court of Criminal Appeal to all civil appeals, and incidentally, to abolish both the title and special status of a lord justice, which goes back to 1851. We regard this as a retrograde step, and trust the proposal will be shelved. A plan which may work very well in the case of a court which only sits on one day at the beginning of each week would break down with a court in continuous session. Mr. Justice Talbot, in a separate memorandum, emphatically dissented from it. In his opinion it ensured no stability in the Court of Appeal and would weaken both that court and the King's Bench Division. It would have an even more injurious effect, if applied to it, on the business of the Chancery Division, where a definite list of causes is assigned to pairs of judges. At present, in case of illness or other emergency, a puisne judge may be called upon to sit in the Court of Appeal, and his list either comes to a standstill or is transferred to another judge who has quite enough to do already. The proposal of the Committee, if carried into effect, would make delay and confusion in the lists chronic instead of being merely occasional.

The Old Exchequer Chamber.

The committee's idea is really a reversion to the primitive form of the Court of Appeal, which is described in the introduction to a very interesting volume, the latest publication of the Selden Society—"Select cases in the Exchequer Chamber." That court was set up originally by a statute of 31 Edw. III, c. 12, providing that in cases of errors in the Exchequer, the matter should be brought before the Lord Chancellor and the Lord Treasurer, who could bring in any judges including the Barons of the Exchequer for consultation. But, like other courts, it was never content with such a limited jurisdiction, and the practice grew up for a judge confronted with a novel and difficult point of law to adjourn it himself to a meeting of the other judges sitting in a "chamber near the Exchequer," at Westminster, or sometimes at Serjeants' Inn. There the question would be fully discussed, but, unfortunately, as in all the earlier reports, the argument is often better reported than the ultimate decision, which was not always unanimous, and the frequent occurrence of the word "etc." leaves a good deal to the imagination. Cases were at first referred by Parliament to the justices in the Exchequer Chamber, but at a later date it became the recognised authority for dealing with any doubts and difficulties which had arisen in the other courts, both of common law and Chancery. Most of the earlier cases came from the Chancery side. The old Exchequer Chamber is the direct ancestor, through the Court of Crown Cases Reserved, of the present Court of Criminal Appeal. But to-day we cannot afford to dispense with a permanently constituted Court of Appeal even if judges for it must occasionally be borrowed from another place, above or below.

Lords Justices and Divisional Courts.

As we have pointed out, a puisne judge may, under the existing rules, be called upon to sit in the Court of Appeal, and this has been done recently owing to the regrettable absence, through illness, of Lord Justice Greer. Now, we have two Lords Justices sitting as a Divisional Court in order to clear off the accumulation of cases in the Civil Paper,

that is, appeals from County Courts, with, of course, the consequence that the ordinary work falling to the Court of Appeal has to wait its turn. This may be inevitable, but it is none the less regrettable, and this surely points once again to the fact that the Bench is still considerably under-manned. Another objection to the practice of having the Divisional Court composed of judges normally sitting in the Court of Appeal is the awkwardness of applying for, and obtaining, leave to appeal from their decisions. When two Lords Justices have given their decision they naturally think that it must be correct, and are consequently loth to grant leave to appeal which is usually necessary if the matter is to be carried further; and so they are apt to say: "You will be appealing to ourselves sitting in another capacity." This, of course, is scarcely accurate, for in the event of an appeal being taken from a Divisional Court to the Court of Appeal it would have to be heard by those members of the latter tribunal who did not compose the Divisional Court. There is thus no real barrier to an appeal from Lords Justices constituting a Divisional Court to the other members of the Court of Appeal. If, however, the proposal of the Business of Courts Committee to abolish Divisional Courts altogether, at all events in matters dealt with in the Civil Paper, is carried into effect, the apparent anomaly of appealing from Cæsar to Cæsar will be removed.

Defining Goodwill.

JUDGES have often deplored the absence of a satisfactory definition of "goodwill." Lord MACNAGHTEN said it was "a thing very easy to describe, very difficult to define" and went on to describe it as "the benefit and advantage of the good name, reputation and connection of a business": *I.R. Commissioners* v. *Muller & Co.'s Margarine Ltd.* [1901] A.C. 217. "The probability that the old customers will resort to the old place" (Lord ELDON in *Cruttwell* v. *Lye* (1910), 17 Ves. 335) is another description which often serves its purpose. The Landlord and Tenant Act, 1927, has made us feel the want of a suitable definition more keenly, and in *Simpson* v. *Charrington & Co. Ltd.* [1934] 1 K.B. 64, C.A., SCRUTTON, L.J., voiced his regret that the opportunity of giving us a statutory definition had been missed. We cannot say that we share this regret. A term can be defined only in other terms, and we feel that this might well have been one of those cases to which "*obscurum per obscurius*" is applied. Moreover, as mentioned in our "Landlord and Tenant Notebook" this week, the learned lord justice has given us, in the same judgment, an excellent description of goodwill for the purposes of the Act. It may well be that the task of defining is one for which an auctioneer and surveyor is better suited than a lawyer. The attempt since made by Mr. J. G. HEAD, a member of that profession, in a lecture at the Chartered Surveyors' Institution, is for this reason one which we welcome. Mr. HEAD is reported to have said that goodwill to the trader was "that arising through knowledge of him by customers to whom he becomes known, by actual transaction, by the recommendation of others, by their acquaintance with his shop, by their hearing of it from others, or through circular or advertisement." This is, we think, a step in the right direction; but it does not take us all the way. Undoubtedly one, some or all of the features mentioned is or are always present in goodwill. But they do not necessarily constitute goodwill. We could, for instance, name one or two restaurants and other concerns which we heard of, with which we became acquainted, and of which we acquired knowledge by actual transaction—the result being, however, a distinct improbability that we should "resort to" the said places, and a conviction that their reputation would never be characterised as "good name." The definition leaves out of account the fact that in real life acquaintance does not always, as writers of fiction put it, ripen into love; but we are grateful to Mr. HEAD for defining what is undoubtedly an essential element of the valuable, though intangible, asset known as goodwill.

Tithe Rent-charge Arrears.

THE decision of the Divisional Court on 30th January in the case of *Queen Anne's Bounty* v. *Executors of William Blacklocks* carries a stage further the somewhat involved position which has arisen in connection with the payment of tithes, and will undoubtedly affect many thousands of cases throughout the country. What, apparently, has happened in many cases, where tithe rent-charge has not been paid promptly, is that Queen Anne's Bounty, fully appreciating the economic difficulties of to-day, and in particular in respect of farming, have held their hands and delayed, in some cases for a very considerable time, before pressing for the execution of a county court order for the recovery of tithe. The whole trouble in the present case arose because the county court judge at Ashford, Kent, had held that execution can only be levied for not more than two years' arrears of tithe rent-charge, counting from the date when application is made to the officer of the county court to distrain. In the case in question, a county court order was obtained on the 2nd May, 1932, for the recovery of one and a half years' tithe rent-charge due on the 1st October, 1931. Queen Anne's Bounty did not press for immediate recovery of the sum, £17 5s. 8d., but waited nearly eighteen months, until November, 1933, when they requested the county court officer to distrain for the sum. They were then told of the decision of the county court judge to the effect above mentioned, namely, that not more than two years' arrears could be recovered as from the date of distress, and as the arrears in the present case fell outside that period, they could not be recovered. Queen Anne's Bounty thereupon applied to the county court judge asking him to direct his officer to distrain for the sum in question, but, basing himself on his previous decision, he refused to give directions and it was against that refusal that Queen Anne's Bounty now appealed to the Divisional Court. The whole matter turned primarily on the construction to be put on the words "not more than two years' arrears shall at any time be recoverable by distress," in the proviso to s. 81 of the Tithe Act, 1836. The court, allowing the appeal, held that those words referred to *quantum*, to the *amount* of arrears that could be recovered at any one time, and did not refer to a *time limit*, and the proceedings for the original order having been begun within the time limit prescribed by s. 10 (2) of the Tithe Act, 1891, they remitted the case to the county court, with a direction that the judge should give to his officer the directions asked for by Queen Anne's Bounty. A contrary view would, of course, have meant that Queen Anne's Bounty would have been unable in many cases to recover sums for the recovery of which county court orders had actually been made—such orders would have been completely defeated. In view of the extreme importance of the case, it seems probable that the matter may go further, and who can say what view another court may take of words which are so obviously open to two equally consistent constructions?

Restoration to the Roll.

SECTION 13 (1) of the Solicitors Act, 1932, provides that the Master of the Rolls may, if he thinks fit, at any time order the registrar to replace on the Roll the name of a solicitor whose name has been removed from, or struck off, the Roll, and No. 8 of Part 1 of the Regulations made by the Master of the Rolls states that the application for restoration to the Roll under the above section must be made by petition to the Master of the Rolls accompanied by an affidavit of the matters of fact on which the applicant relies in support of his petition. The scrupulous thoroughness and care with which the Disciplinary Committee of The Law Society conduct their investigations into complaints leave no room to doubt the justice of their decisions, and it is not, therefore, surprising that applications for restoration are most rare. Indeed, in those few cases in which the Disciplinary Committee consider that the facts elicited are not entirely

inconsistent with possible future restoration they may append to their findings and order striking a solicitor off the Roll a note to that effect. So far as we are aware, only two or three such notes have appeared over a long period of years. In a recent order made by the Committee to strike a solicitor off the Roll the Committee stated that in making the order they had in mind certain remarks made by Lord ESHER, M.R., when delivering his judgment in the case of *In re Weare, a Solicitor: In re The Solicitors Act*, 1888 [1893] 2 Q.B. 439, in which the Court of Appeal dismissed an appeal by a solicitor against an order of the Divisional Court, made on an application by The Law Society to strike the solicitor's name off the Roll on the ground that he had been convicted of a criminal offence, although the offence had not been committed in his character of a solicitor. In that case Lord ESHER said: "It may prevent him from acting as a solicitor for the rest of his life, but it does not necessarily do so. He is struck off the Roll: but if he continues a career of honourable life for so long a time as to convince the court that there has been a complete repentance, and a determination to persevere in honourable conduct, the court will have the right and the power to restore him to the profession. His case, therefore, is not hopeless; but for the time he must be struck off the Roll, and this appeal must be dismissed." Lord COLERIDGE, C.J., and Lord ESHER, M.R., and Lord Justice BOWEN also made remarks to the same effect in *In re Brandreth*, 60 L.J. Q.B. 501, and in *In re Shearman*, 94 L.T.J. 367, respectively. In the present case the Committee said that in their opinion the remarks of those judges might be found to be applicable, and they (the Committee) considered that there might come a time when, and circumstances in which, the solicitor who had been struck off—and who had pleaded in mitigation that an offence of which he had been convicted did not involve professional misconduct—might properly apply to have his name restored to the Roll.

Receipts and Expenditure of the Courts.

SOME significant figures are contained in a recently issued White Paper giving details of receipts and expenditure in respect of the High Court, the Court of Appeal, the Courts of Assize, and the offices and officers connected with them, during the year ended 31st March, 1933. Receipts, in regard to civil business of the courts, reached the high total of £944,054, including £548,513, being the amount of court fees taken in stamps. Expenditure, on the other hand, totalled £716,339, £135,421 of which represented judges' salaries and pensions, excluding the salary of the Lord Chancellor. An expenditure of £72,057 was received in connection with the criminal business of the courts, which included £24,628 as the estimated proportion of the judges' salaries in the King's Bench Division. Arising out of the system of legal aid for poor persons, which came into force on 6th April, 1926, the grant in aid of expenses of administering the Poor Persons' Rules, was £6,500. A receipt of £47,212, representing interest on funds formerly belonging to the Court of Chancery, is referred to and explained. By 1869 the court possessed £3,628,828 17s. 8d. (stock), and £285,916 12s. 6d. (cash), which were held against a liability to suitors. These funds were transferred to the Commissioners for the reduction of the National Debt, and the Exchequer benefited by £3,938,345. In return the Treasury was to give the court certain credit and payments if required. The Treasury had made payments represented by stock to the total of £1,420,380, by 31st March last, and the cancelled stock in respect of which the court was entitled to credit was £2,517,968. The total of the dividends or interest on that amount, less income tax, accounted for the receipt item of £47,212 referred to. From these figures it appears abundantly clear that the courts were not only solvent but prosperous, at a period when few other undertakings could show a favourable balance. For those who are wise this is a word of wisdom, as classical scholars used to say.

Divorce Reform.

THREE matters of considerable importance are now in various stages of progress in respect of the law of divorce. At the time of writing the Matrimonial Causes (Procedure in Suits for Nullity) Bill, introduced by Lord Merrivale into the House of Lords, has passed its third reading in that House, without, apparently, any amendment. In the House of Commons Mr. Holford Knight has presented a Matrimonial Causes Bill, mainly to enlarge the causes of divorce according to the recommendations of the Royal Commission over which the late Lord Gorell presided more than twenty years ago. This Bill, like innumerable others presented by private members, has been "talked out" by an opponent. Finally, there is the proposal, which may or may not be crystallised into a recommendation of the Select Committee on procedure to dissolve the Probate, Divorce and Admiralty Division of the High Court, as now functioning, under s. 4 (1) (iii) of the Supreme Court of Judicature (Consolidation) Act, 1925, and apportion its work between the other two divisions. In such apportionment the suggestion is that probate suits should be taken by the Chancery Division, and divorce and Admiralty go to the King's Bench, the latter being sent to the Commercial Court. In an article printed in *The Times* (6th Dec. 1933), Lord Merrivale has shewn his own dissent both from the principles of Mr. Holford Knight's Bill and the disappearance of the Division of the High Court, of which he was until recently President.

The changes to which he objects might certainly be regarded as radical reforms, but that for which he is sponsor concerns a comparatively rare kind of case, and marks, not the adoption of new procedure, but reversion to an old one. This proposal is that, in undefended suits for nullity of marriage on the ground of impotence, the evidence on the question of sexual capacity shall be heard *in camera*, and in defended suits it shall also be heard *in camera* unless a judge in the interests of justice orders otherwise.

The history of the practice in respect of these cases shews a curious series of reversals. Before 1857, the Ecclesiastical Courts heard them wholly *in camera*, but in two brought soon after the first Divorce Act had been passed, namely *Barnett* v. *Barnett* and *H., falsely called C.* v. *C.* (1859), 29 L.J. (P. & M.), 28 and 29, counsel for the petitioner requested the judges, in accordance with the old practice, to order them to be heard *in camera*, and were refused. The judges then held that, under the new legislation, they had no power to make such orders. It appears, however, from a reporter's footnote to *A.* v. *A.* (1875), 3 P. & D., 230, that on or after the hearing of *Marshall otherwise Hamilton* v. *Hamilton*, reported as *M., falsely called H.* v. *H.* (1864), 3 Sw. & Tr. 517, in which the evidence had been very offensive, Sir J. Wilde signified that for the future such cases should be taken *in camera*. This practice was against the previous decisions, but it was recognised in *A.* v. *A.*, *supra*, by Hannen, P., and thereafter established, until, perhaps to the surprise of the profession, the House of Lords laid down firmly in *Scott* v. *Scott* [1913] A.C. 417, that divorce judges had no power, either with or without the consent of the parties, to hear nullity cases *in camera* for any reasons of public decency. Since that decision these cases have been heard in open court, and it is this practice which Lord Merrivale seeks to modify as above.

His Bill appears to have a good chance of becoming law, and, certainly in undefended cases, the change may be regarded as an improvement, though it is to be observed that s. 5 of the Punishment of Incest Act, 1908, providing that cases under that Act should be heard *in camera*, worked so badly that it had to be repealed. In respect of defended nullity cases, it is perhaps open to question whether a person upholding both his or her honour and right to be considered a normal human being should not be given the right to public refutation of a charge which, if untrue, is odious on a

twofold count. In such case the court would always have the power, if the ordeal of public testimony so paralysed the petitioner that he (or more usually she) broke down in the witness-box, to take his or her evidence *in camera*. Doctors and specialists who testified would require no such protection, and, in respect of decency, it is to be observed that indecent evidence, even of unnatural offences in ordinary divorce cases, and, of course, in criminal courts, would still be heard in public.

Mr. Holford Knight's Bill to carry out the recommendations of the Royal Commission resembles generally the two introduced into the House of Lords by Lord Buckmaster, each of which passed that House, but not the House of Commons. Modification, however, has had to be made, having regard to the fact that, since Lord Buckmaster's Bill was introduced, the divorce law has been consolidated in Pt. VIII (ss. 176–200) of the Judicature Act, 1925. Mr. Knight seeks to make divorce possible for (in addition to adultery) desertion, cruelty, drunkenness (including drug taking), incurable insanity, and imprisonment under a commuted death sentence. This enlargement of the causes for divorce is, of course, very highly controversial. A matter, however, which is not controversial, and is acknowledged by Lord Merrivale, is that under the present law there are, in his words, "fictitious or artificial cases, in which innocent association with another woman (by the respondent husband) may be passed off as adultery." In other words, the present system has led to collusive divorce by mutual consent, a speciality which is not therefore confined to Reno. Lord Merrivale suggests that there should be "some means of expressing the guilt of the guilty party," but does not indicate what he considers should be their nature. Plainly, if the respondent is content to be branded as an adulterer in return for his freedom from matrimonial fetters, to stigmatise him as a rogue and a vagabond or an incorrigible rogue, will not hurt him further. Lord Merrivale does not, in terms, suggest that adultery should be made a criminal offence, but it is difficult to see what else he can mean.

Some of the less controversial reforms in Mr. Knight's Bill are of interest. Provision that a wife deserted by her husband, or whose husband is an alien deportee, shall keep her domicil if English at the time of desertion or deportation, is plainly aimed at *Ogden* v. *Ogden* [1908] P. 46. In that case a woman married to and deserted by a young Frenchman in England was held irrevocably tied to him, although the country of his domicil had declared the marriage void for want of consent of his parents, and he was living in France with another lawful wife. Obviously, the French courts would not dissolve a marriage which, according to their ruling, did not exist, so she was left without remedy for her husband's desertion and bigamy. Another provision, allowing nullity to a man whose wife at the time of marriage was, unknown to him, pregnant by another man, is as obviously aimed at *Moss* v. *Moss* [1897] P. 263, where a decree in such circumstances was refused. The Royal Commission unanimously recommended this change, and the case was again a hard one, but the logic of Lord St. Helier's judgment is not very easy to refute. If Mr. Knight's Bill ever reaches a third reading, which hardly appears likely while it remains a private member's Bill, possibly some lady will propose an amendment to allow a wife nullity of marriage on an affiliation order being made against her husband in the first few months.

The provision for nullity in the case of mental unsoundness at the time of marriage becoming definite in six months cannot be dissociated from *Durham* v. *Durham* (1885), 10 P.D. 80. In fact, the marriage of the Lord Durham in question lasted for over forty years, during all of which period save a few months Lady Durham was *non compos mentis*.

The question of dissolving the Probate, Divorce and Admiralty Division of the High Court is one, naturally, of moment to the officials of that Division, and the barristers who practise in it. Ultimately, however, the public benefit must prevail, and if divorce cases can be considered as carefully in the King's Bench Division and made less expensive, it may be that the change will have to come about.

It may be submitted that the question of the enlargement of the causes for divorce is far too important for a private member's Bill, and that the matters both of transferring divorce work to the King's Bench and such enlargement should be framed in Bills for which the Government should be responsible, and which should be accorded adequate time for debate. On such a footing the Government could limit its responsibility to seeing that the proposals of the majority of Lord Gorell's Royal Commission, which reported over twenty years ago, were settled by Parliamentary draftsmen (who should also make any necessary alterations in the present statute law), and given sufficient time for the necessary deliberations on a second reading, and, if passing that reading, for its further stages. There appears to be no reason, however, for the Government, on presentation of such a Bill or Bills, to go further and require their supporters to vote for it. A Bill to carry out Lord Gorell's recommendations would cut through all party ties, and staunch Conservatives and Socialists would probably be found side by side with each other in both lobbies. Such a Bill might be defeated in the House of Commons, and, if it had been fairly presented, divorce reformers could not then complain. So important a matter, however, should not be at the mercy of any private member who, taking advantage of the somewhat archaic procedure of the House, chooses to smother it by talking it out to a destined time limit.

Goods Fraudulently Removed.

UNDER the provisions of the Distress for Rent Act, 1737, if a tenant of premises "shall fraudulently or clandestinely convey away or carry off from such premises his, her, or their goods or chattels to prevent the landlord or lessor . . . from distraining the same for arrears of rent," the landlord is authorised to follow and distrain such goods wherever they may be, within thirty days of their removal. Further, by s. 3 of the same statute, a legal right of action is given against the tenant and/or any third party privy to his fraud in so removing the goods. It is proposed to consider each of these remedies in turn.

(1) RIGHT OF SEIZURE.

To come within the statute the removal must have been fraudulent *or* clandestine. Both elements need not be present. Thus, in *Opperman* v. *Smith* (1824), 4 Dow. & Ry. 33, it was held sufficient for the purposes of the Act that the removal be fraudulent, even though committed openly and with the landlord's knowledge. On the other hand, the mere fact that the removal was secret does not in itself (despite the wording of s. 1) entitle a landlord to proceed under the statute, and the "clandestine" element is of importance chiefly as evidencing fraud. The gist of the matter has been well summarised by Bullen ("Distress," 2nd ed., p. 147) as follows:—

> "... the Statute may now be said to apply to all cases where a landlord by the conduct of his tenant in fraudulently removing goods from the premises for which rent is due, *is turned over to his barren right of bringing an action for its recovery*."

The intent must be to defeat the landlord's exercise of his legal right of distress for rent. Although in *Opperman* v. *Smith*, *supra*, Best, J., had laid down the principle that, "it is the duty of every tenant, when he is about to quit his residence, to pay his landlord his rent before he removes his goods, and the fact of removing the goods before the rent is paid, or in any manner provided for, implies something very like an intention to evade payment altogether," the mere proof of the removal of goods, even though the consequence thereof was to leave insufficient goods to satisfy

the arrears of rent, is at most only evidence of fraud (*Parry* v. *Duncan* (1831), 7 Bing. 243. In the last-mentioned case, the court (Tindal, Bosanquet and Alderson, JJ.) appear to have inferred that it is for the landlord justifying a seizure under s. 1 to show that no sufficient distress remained on the premises after the removal, but in *Gegg* v. *Perrin and Bond* (1845), 9 J.P. 619, Earle, J., on circuit, refused to accept this view, even though the defendant-landlord had there pleaded specifically that there was no sufficient distress remaining on the premises, and said: "No doubt it is cogent evidence of fraud, and as it is pleaded in this case, I shall leave the question to the jury; but I cannot think that it is necessary in point of law to prove this, if the jury are otherwise satisfied of the fraud, even though the fact be alleged on the record."

The landlord must, however, satisfy the court on the following points:—

1. *That the removal took place after the rent became due.*

The word "due" in this connection is important. The notes to *Poole* v. *Longueville* (2 Saund. 274) contain the statement (on p. 284B) that the statute applies "only to the case where *rent is in arrear* at the time the goods are removed." The phrases "rent due" and "rent in arrear" are not synonymous; rent becomes "due" on the first moment of the rent day; it is not "in arrear" until the whole of that day has passed. The statute itself is not very helpful in the matter, as it refers to "*arrears* of rent . . . *due*, or made payable," but in *Rand* v. *Vaughan* (1835), 1 Bing. N.C. 767, where a distress by a landlord of goods fraudulently removed *before* the rent became due was held illegal, Tindal, C.J., impliedly held that a fraudulent removal on the rent day itself would come within the mischief of the statute. And in *Dibble* v. *Bowater* (1852), 22 L.J. Q.B. 396, where rent became due on Christmas Day and the tenant on that day fraudulently removed his goods, it was held that the statute enabled the landlord to follow and distrain the goods within thirty days after their removal, and (*per* Lord Campbell, C.J., at p. 398) that the statute "does not say that the rent shall be in *arrear* at the time of the removal." Nevertheless, it should be noted that since the power conferred by the statute of following and seizing the goods is basically a power of *distraining*, it cannot be exercised until the rent is *in arrear*, i.e., until the rent day is past.

2. *That the goods removed were the property of the tenant.*

The statute applies "in case any tenant shall fraudulently or clandestinely carry off *his, her,* or *their* goods," and in *Thornton* v. *Adams* (1816), 5 M. & S. 38, it was successfully argued that, "though by the common law the landlord may distrain upon the premises for rent arrear, without regard to whom the property belongs, yet, here, in order to give effect to this statutable remedy, the plea ought to show that the goods were the goods of (the tenant), for otherwise the (landlords) are not justified in following them." This decision was followed in *Fletcher* v. *Marillier* (1839), 9 A. & E. 457.

It is *not* accurate to say that, in order that the statute may be invoked, the goods removed must be goods over which the landlord had a right of distress. The proper test is narrower—they must be the goods of the tenant. Two examples will serve to illustrate this important point:—

(*a*) A landlord has a right of distraining on the goods of a lodger of his tenant, though the lodger can thereupon take certain steps to protect his property. But in *Postman* v. *Harrell* (1833), 6 C. & P. 225, it was held that a landlord has no right under the 1737 Act to follow and distrain upon the goods of a lodger fraudulently removed from the premises, but only those of his own immediate tenant.

(*b*) Goods comprised in any bill of sale made by the tenant are, both at common law and (now) under the provisions of s. 4 of the Law of Distress (Amendment) Act, 1908, freely distrainable by the landlord. But in *Tomlinson* v. *Consolidated Credit Corporation* (1889), 24 Q.B.D. 135, where a tenant granted a bill of sale over his furniture, and the defendants (as grantees of the bill) removed the furniture with the tenant's authority and with a view to preventing the plaintiff from distraining for rent then due, it was held that the plaintiff was without a remedy under the 1737 Act.

As a corollary to the foregoing, goods which, had they been upon the premises, would not have been distrainable at the time of removal are not made distrainable by the 1737 Act, whether it be because the removal took place before the rent became due (as in *Rand* v. *Vaughan*, *supra*), or because at the time of the purported seizure and distress the tenant's interest in the demised premises had come to an end and he is no longer in possession (as in *Gray* v. *Stait* (1883), 11 Q.B.D. 669), or otherwise.

3. *That the removal was fraudulent.*

This is a question for the jury: *Opperman* v. *Smith*, *supra*. In *John* v. *Jenkins* (1832), 1 Cr. & M. 227, it was admitted by counsel for the defendant that the removal was to avoid a distress, but added that the tenant removed the goods in the belief that the landlord had no right to distrain because the original lease under which the rent became due was determined; and in these circumstances, despite the admission, the court held that the question of whether or not the removal was "fraudulent" within the meaning of the statute was for the jury. It is not, however, necessary that the party to whose premises the goods have been removed shall have been privy to the fraud: *Williams* v. *Roberts* (1852), 7 Ex. 618.

Provided the foregoing conditions are complied with, the landlord may follow and sell the goods seized within the time limited, unless they have been sold in the meantime for valuable consideration to some person not privy to the fraud: s. 2, 1737 Act. Section 7 gives the landlord power to break open houses, barns, stables, etc., to seize during the daytim such goods, after first calling to his assistance a const (*Rich* v. *Woolley* (1831), 7 Bing. 651), though in *Cartwrig* v. *Smith* (1833), 1 Mood. & Rob. 284, it was held sufficient if the landlord be assisted by a person appointed a special constable for the occasion, and that an ordinary peace-officer is not essential.

No previous request to the occupier of the premises whence the goods have been removed is necessary before they may be broken into (*Williams* v. *Roberts*, *supra*), but if a dwelling-house is sought to be broken into, an oath must first be made to a justice of the peace that there are reasonable grounds for suspecting that the goods are there.

A landlord sued for trespass by the third person on whose premises the goods have been seized should plead specifically the fraudulent removal (*Furneaux* v. *Fotherby* (1815), 4 Camp. 136; *Vaughan* v. *Davis* (1794), 1 Esp. 257). Although, by s. 21 of the 1737 Act, it is provided that ". . . in all actions for trespass . . . against any person entitled to rents . . . relating to any distress or seizure, . . . it shall . . . be lawful for the defendant . . . to plead the general issue," it was held in *Postman* v. *Harrell*, *supra*, that the defence of "Not Guilty by Statute," has no application to this case and that the defendant should plead specifically.

(2) Action for Double Value.

By s. 3 of the 1737 Act, provision is made for the forfeiture to the landlord by the tenant and/or by any person "wilfully and knowingly" aiding and assisting him in such fraudulent removal of double the value of the goods removed.

In an action against a third party for such double value, it is necessary to prove strictly that he was actually privy to the fraudulent intent of the tenant (*Brooke* v. *Noakes* (1828), 8 B. & C. 537; *Reg.* v. *Radnorshire JJ.*, (1840), 9 Dowl. 90). But in *Bach* v. *Meats* (1816), 5 M. & S. 200, a creditor who had taken possession of his debtor's goods with the latter's consent for the purpose of satisfying a *bona fide* debt, was held to have acted perfectly legally, even though he did so because he

apprehended that the debtor's landlord might shortly distrain on the goods.

It is no essential part of the landlord's case that the distress shall have been in progress or even in contemplation (*Stanley* v. *Wharton* (1822), 10 Price, 138). According to "Bullen" (p. 253), "it is enough if it be shown that the rent was *in arrear*," though, as we have seen, this is not strictly accurate.

The statute is regarded as penal, and therefore, the privity of the defendant to the fraud must be strictly established. And in *Hobbs & Co. Ltd.* v. *Hudson* [1894] 25 Q.B.D. 232 it was held that the plaintiff in such proceedings is not entitled to administer interrogatories to the defendant. On the other hand, the action was, in *Stanley* v. *Wharton*, *supra*, held not to be so far penal as to prevent the court from ordering a new trial, notwithstanding the fact that the jury had returned a verdict for the defendant.

If the value of the goods removed does not exceed £50, the landlord may bring his action for double value before justices (s. 4, 1737 Act). But this provision in no way prevents him from suing in the High Court even where the goods are less than £50 in value, if he so desires (*Stanley* v. *Wharton*, *supra*).

Company Law and Practice.

Receivers.—I.

No, the title has misled you; you are not going to have to read another disquisition on debenture-holders' actions, and the relief to be obtained therein, or on the powers and duties of receivers, interesting and never-ending as this latter topic may be. What I want to discuss is the possibility of the appointment of a receiver over the undertaking and assets of a company where there is no debenture-holders' action on foot, and maybe, no debentures.

Ridiculous, you say; such a thing cannot be done. On principle, it certainly seems that such a step is a curious one, but there are two cases in which it has actually been done. I want to take up a little space in examining them, because they certainly seem, at first sight, to be opposed to principle. But, before we just look at these two, let us re-state the general principle which the court has laid down as to interference with the affairs of a company. The company in general meeting constitutes a domestic tribunal, and the court will not interfere with the affairs of a company, provided as it is with such a means of settling its own affairs, except in certain specified classes of cases.

Thus, where the company in general meeting is seeking to do something which is *ultra vires* the company or where a fraud on the minority is being perpetrated: for a case of the latter kind, see *Menier* v. *Hooper's Telegraph Works* (1874), 9 Ch., App. 350, and for general statements of the law applicable, see *Burland* v. *Earle* [1902] A.C. 82, and *British America Nickel Corporation* v. *O'Brien* [1927] A.C. 369. Perhaps one of the best cases to look at with a view to seeing a statement of the general principle of non-interference is *McDougal* v. *Gardiner*, 1 Ch. D. 13; I do not want to take up space unnecessarily by referring to the judgments in that case, because I want to get on to the question of receivers.

As I said, there are two cases of the appointment of receivers: they are *Trades Auxiliary Co.* v. *Vickers*, 16 Eq. 303, and *Stanfield* v. *Gibbon* [1925] W.N.11, where P. O. Lawrence, J., followed the earlier case, notwithstanding the critical attitude taken up towards it by text-book writers in the light of the decision in *McDougal* v. *Gardiner*, *supra*. One observation may at once be made as regards this latter case, namely, that the application for the appointment—which was for a manager of the company's business as well as for a receiver—was not opposed by the defendants in the action.

Now I conceive that the jurisdiction of the court to appoint a receiver must be based on the principle that equity will in a proper case interfere, at the instance of some person interested in property, to protect that property by appointing the court's own officer to look after it until the danger is past. Thus it would follow that the application would have to be made by the company: the individual shareholders have no interest in the assets of the company. As illustrations one may take receivers appointed at the instance of mortgagees, or of creditors in a creditor's administration action, they have an interest in the subject-matter of the appointment.

In *Stanfield* v. *Gibbon*, *supra*, the company was one of the plaintiffs, and it may be noticed in passing that there was a mortgage on some, at any rate, of the property of the company, though not on the goodwill of its business, and that a receiver had been appointed, at the instance of the mortgagee. The mortgagee's receiver was appointed receiver and manager of the company's undertaking and assets on the application we are now considering, and this no doubt represented a great convenience and saving of expense.

And here let us pause for a moment to consider what a fundamental interference with the constitution of a company the appointment of a receiver constitutes in such circumstances. In the first place, it is by no means easy to see what actually his functions are—for it is idle to make any comparisons between him and a receiver appointed in a debenture-holders' action—the latter is merely dealing with property on behalf of mortgagees who have stepped in to claim what is virtually their own property, and not that of the company. But in the case we are thinking of, the receiver must presumably occupy the position of a sort of super sole director; and this, of course, involves the abrogation of great chunks of the company's articles of association—take for instance, the usual article about the directors managing the affairs of the company, that goes by the board at once. It is no answer to say that that is what happens in a debenture-holders' action—that is not so at all, for the assets which are taken over by the receiver have practically ceased to be the company's assets; it has only an equity of redemption in them, and they are taken, and properly taken, out of the company's possession.

What is the position of creditors in such a case? In the normal way creditors have various rights against the assets of the company of which they are a creditor—thus, if they get judgment they can levy execution. But the appointment of an officer of the court to take possession of the company's assets must interfere with the creditor's rights in this respect, at any rate. By this means the position of a creditor might be seriously damaged; to put a concrete case, he might have just manœuvred himself into a position of being able to levy execution when the appointment of a receiver puts an end to the possibility of his doing that for the time being; and when the receiver is discharged there may be numbers of other creditors who are in a similar position, so that the first one has lost his priority. Again, this is quite a different case from the debenture-holders' action, because there the rights of the creditors, generally speaking, come behind those of the debenture-holders.

What functions does such a receiver assume? I have said, he presumably occupies the position of sole director, and therefore, he will conduct the business of the company as he thinks best. This is a gross interference, of itself, with the constitution of the company—but what else can he do? Can he, for instance, make calls, forfeit shares, recommend dividends, place sums to reserve, and do all the other thousand and one things which directors are wont to do? If he can, why should he be allowed to, for the company has constituted another authority to do all those things; if he cannot, it may be that some of the things require to be done most urgently, and that the company's interests will suffer if they are not. The answer no doubt, is that, as and when occasion arises, the receiver can apply to the court for directions, but, with all respect to the court, such directions are a poor substitute for the collective wisdom of the directors.

Now in *Stanfield* v. *Gibbon*, *supra* (I must apologise for having made somewhat of a digression from it), it was alleged

that the directors, or some of them, had conducted themselves in such a way as to amount to a virtual abandonment of their duties, by neglecting or refusing to hold a board meeting of the company for several months, as a result of which the conduct of the company's business was being seriously jeopardised.

In such a case you may say that many of the objections raised above, though they might be valid in some cases, could have no application to a case where there is a dereliction of their duties by the board. It seems to me that a board which abandons its duties might well be guilty of misfeasance, but the company has entrusted its affairs to that board, and its remedy is surely in general meeting.

I fear that I cannot trespass further on my readers' good nature this week: the topic has proved a more fruitful and interesting one than I anticipated, and I must return to it later, when, I hope to be able to deal with the two cases to which I have referred, but have not been able to discuss on this occasion.

A Conveyancer's Diary.

An Agent's Right to Commission.

A CASE of considerable interest to solicitors is reported in *The Times* for 7th February—*Geo. Trollope and Sons* v. *Martyn Bros.* The question involved was as to the right of the plaintiffs, a firm of estate agents, to commission in respect of a sale which had been negotiated by them, but had not been completed, because, apparently, the vendors were unwilling to complete for reasons which do not appear. It seems, however, that the agents had, in fact, found a purchaser, and the vendors had not seen fit to complete with the result that the agents had been deprived of the commission which they had earned or, at any rate, claimed to have earned.

It appears from the report in *The Times* that the plaintiffs were employed as the sole agents of the defendants to sell certain property for them. The plaintiffs found a purchaser who was willing to purchase "subject to contract" and he or his agent wrote to the plaintiffs to that effect. The price was one at which the plaintiffs were authorised to sell on the defendants' behalf.

The negotiations had been transacted partly by telephone and eventually the plaintiffs wrote to the defendants "we confirm your acceptance of the offer made by . . . Major Howard to purchase the freehold of the property subject to contract for the sum of £20,500 . . . we take this opportunity of confirming that, in the event of the sale materialising, we shall look to you for payment of the usual scale commission." The defendants refused to complete and relied upon the provision "subject to contract" in their agents' letter. In that there can be no doubt they were right, the proviso "subject to contract" in effect, making the agents' letter nugatory. Nevertheless, the defendants' agents said that they had found a purchaser able and willing to complete the contract, and so, although not entitled to the commission which they alleged they had earned, they were entitled to an equivalent sum as damages, for the defendants having, by their own act, prevented them from earning the commission.

Horridge, J., decided that, although not entitled to commission, the plaintiffs were entitled to damages and gave judgment for them for the amount of the commission which, but for the default of the defendants, they would have earned.

The learned judge based his judgment upon two cases to which I think it may be useful to refer. Before doing so, however, it may be as well to point out that there was in fact no contract between the parties. The offer to sell had been made "subject to contract" and had been accepted only on those terms. Neither at law nor in equity, therefore, was there any contract enforceable either by the vendor or the purchaser. The question, therefore, between the plaintiffs and the defendants was whether or not the plaintiffs had suffered damage by reason of the defendants not choosing to enter into a contract (which they were not bound to do), which would have resulted in a sale in respect of which the plaintiffs would have been entitled to a commission.

Now to turn to the authorities.

In *Keppel* v. *Wheeler and Another* [1927] 1 K.B. 577, the facts were that the owner of house property employed a firm of house agents to sell the property. They gave particulars of the property to a tenant, amongst other persons, and procured an offer from a prospective purchaser. They communicated this offer to the owner, and he accepted it "subject to contract." The tenant then made an offer to the agents to purchase the property from the prospective purchaser at an increased price. In the *bonâ fide* belief that they had performed their duty as agents to the owner when he accepted the offer of the prospective purchaser subject to contract, they omitted to inform the owner of the offer of the tenant. Afterwards final contracts for the sale and purchase of the property were signed and exchanged by and between the owner and the prospective purchaser. The owner then brought an action against the agents for damages for breach of duty in not disclosing to him the offer of the tenant before the contracts were signed and exchanged. The agents counter-claimed for commission on the sale of the property. It was held by the Court of Appeal that the obligation of the agents to the owner was not fully performed when he accepted the offer subject to contract, but continued until final contracts were exchanged: that this obligation involved a duty to communicate to him the offer of the tenant: that having committed a breach of this duty, they were liable in an action for damages and that the measure of damages was the difference between the price named in the contracts and the price offered by the tenant. It was also held that the agents were entitled to their commission.

That case is interesting from several points of view, but for my present purpose it is sufficient to point out that the defendants were held to be entitled to their commission, although they had failed in their duty to their employer. It seems to be a curious result, but Bankes, L.J., put it quite plainly: "It seems to me that an agent might quite properly claim his commission, and yet have to pay damages for committing a *bonâ fide* mistake which amounts to a breach of duty." I must confess to some doubt regarding the counter-claim for commission. Either the agent was or was not guilty of a breach of duty. If he was (and it was held that he was) there could, one would have thought, be no question of his being entitled to commission. At least that is how I look at it, but it appears that in special circumstances I may be wrong, for Atkin, L.J., said: "Now I am quite clear that if an agent in the course of his employment has been proved to be guilty of some breach of fiduciary duty, in practically every case he would forfeit any right to remuneration at all. That seems to me to be well established. On the other hand there will be breaches of duty which do not go to the whole contract, and which would not prevent the agent from recovering his remuneration, and as in this case it is found that the agents acted in good faith and as the transaction was completed and the appellant has had the benefit of it, he must pay the commission."

In other words an agent who is guilty of a "breach of duty" is not entitled to be paid unless the "breach of duty" is, in the opinion of the Court of Appeal, "*bonâ fide*."

The other case referred to was *James* v. *Smith* [1931] 2 K.B. 317. Apparently this case was not thought worthy of reporting in the first place, but has been made the subject of a "Note" in the Law Reports.

I do not think that I need dwell upon this case because all that it appears to decide is that commission cannot be successfully claimed by an agent who has not found a purchaser able

and willing to complete his contract. In *Keppel* v. *Wheeler*, there was no question of that kind, but in *James* v. *Smith* there was, and in the event it was held that the agents had not earned their commission because they had not introduced a purchaser who was able and willing to complete. That case does not, therefore, seem to me to be of much service to us, although, no doubt, the judgments, if read, are instructive on the general law upon the subject.

Landlord and Tenant Notebook.

Explaining Compensation for Goodwill.

It is not long since I recorded in the "Notebook" the effect of recent decisions on ss. 4 and 5 of L.T.A., 1927 (77 Sol. J. 878); so I hasten to announce that in this article I do not propose to revert to the subject merely because of its fascinating nature. I want to deal with a difficulty which must have confronted many of my readers, namely, that of disillusioning an over-sanguine tenant who, as the result of reading popular newspapers, attending lectures delivered by an estate agent, and/or, perhaps, of listening to his M.P., has exaggerated ideas of the benefits conferred upon him by those sections.

When the Act was yet a Bill, Lord Carson expressed the opinion in the House of Lords that it would give rise to 2,000,000 lawsuits. At a more recent dinner enjoyed by referees and others concerned with the working of Part I of the Act, speakers pointed out that very little litigation had in fact occurred, and ascribed this to the excellent draftsmanship and machinery of and provided by the statute. While respectfully agreeing that, despite some superficial resemblance in name, Lord Carson's gift of gloomy prophecy is not equal to that of Cassandra, I cannot accept the premises. I believe rather that many a tenant of business premises who might have obtained compensation or even a new lease has decided to take no action simply because, by the time his solicitor has finished describing the limitations on his rights, he has come to the conclusion that the whole thing is a "do." Further that, while a form of words in which the right is created and then limited is essential, and some disappointment is therefore inevitable, the arrangement of s. 4 (1) is unnecessarily disorderly. In the various sub-sections and paragraphs, phrases which enact rights, supply remedies, provide safeguards, and give definitions succeed each other in so confused a fashion that chaos is not too strong an expression to describe the result. For this reason I propose to set out a number of rules, taken from s. 4, in the order in which I suggest they should be put to the client.

I am aware that many tenants think that they are entitled to new leases, and that that is a subject dealt with in s. 5; but as the first thing to point out is that there can be no right to a new lease unless the applicant be qualified for monetary compensation under s. 4, and as the additional qualifications present little difficulty, I am limiting myself to the provisions of the latter.

When the minimum five years' requirement has been dealt with, then the first subject to be discussed should be when and how the term will end. The question when is of importance from the point of view of notice of intention to claim; if it is too late, nothing can be done, for time cannot be extended by the court (*Donegal Tweed Co. Ltd.* v. *Stephenson* [1929] W.N. 217). The question how should be referred to because a tenant may think that he can give notice and yet claim compensation; not only must he not have given notice, but he must also not have omitted unreasonably to exercise an option for renewal, whether contained in his lease or in a collateral agreement (Proviso (*f*)).

This point having been disposed of, the nature of the goodwill in respect of which compensation can be claimed has to be made clear. The nature of goodwill itself is not easy to explain; and when it comes to the vital distinction between personal and local goodwill, many a practitioner will dread the task. But, while it may not be usual to read passages from the law reports to shopkeeper clients, I believe that the commencement of Lord Justice Scrutton's judgment in *Simpson & Co.* v. *Charrington & Co., Ltd.* [1934] 1 K.B. 64, C.A., pp. 69-72, gives so lucid a survey of the position that the intelligent layman can appreciate it. If not intelligent but yet reasonable, the client can be invited to consider what premium he could obtain if the lease had still some years to run; the difference between what Mr. Merlin has called "cat" goodwill and "dog" goodwill should then become apparent to him. This, as I will show later, is a rough and not a precise test.

In some cases the provision that the goodwill must be such that the premises could, by reason thereof, be let at a higher rental than could otherwise be obtained may have to be touched upon. These words are not, I think, otiose; they provide for a case in which other influences have depreciated the letting value of the premises, but the carrying on of the business has reduced the net loss.

Assuming, now, that the tenant is *primâ facie* entitled to compensation, the question of factors which may have to be taken into account in reduction of the amount awarded has to be faced. These factors appear, at first sight, to be three in number, and can be said to relate one to the landlord's past, another to the tenant's future, and the other to the activities of third parties. If the landlord by restricting the user of property in the neighbourhood has contributed towards the goodwill attached to the client's premises, credit is due and must be given (Proviso (*e*)). If the tenant intends setting up business elsewhere in a way which may affect the goodwill of the present premises, allowance must be made (Proviso (*d*) (i)). And, lastly, increase exclusively attributable to the situation of the premises is to be disregarded (Proviso (*d*) (ii)). At the conclusion of my article of 16th December last, I said it was a little difficult to fit this particular provision in with the scheme of the Act, for it seemed to be inconsistent with the idea that the tenant is to get from his landlord what he could have got from an assignee if the term continued, regardless of special efforts. The only thing the clause then appeared to mean, if it meant anything, was goodwill brought about by changes in the character of the neighbourhood, improved means of transport, and the like. At the time, I had not the full report of *Simpson* v. *Charrington & Co.* before me, as I have now, and I am pleased to observe that both Scrutton, L.J., and Greer, L.J., have referred to the point in *obiter dicta*. Their lordships suggest, in effect, that the clause does not mean anything; that is to say, that Parliament merely meant to point out that value attributable to the probability of new customers coming to the premises because of their situation, as opposed to value attributable to the probability of old customers, who may come because of the situation, coming again, is not to be considered in assessing compensation for goodwill. This need not have been said, because such value does not fall within the meaning of "goodwill"—but it is, perhaps, useful as a reminder that the hypothetical question "what could you get for your lease if it still had some years to run?" is a rough and not a precise test.

Our County Court Letter.

MOTORISTS' LIABILITY FOR HOSPITAL FEES.

The above subject was considered in two recent cases at Kidderminster County Court. In *Kiddermister General Hospital Committee* v. *Hancock*, the claim was for £12 12s. for treatment as an in-patient for four weeks (at £3 3s. a week) and £1 1s. for treatment as an out-patient, viz., a total of £13 13s. The defendant had paid £10 10s. into court (without a denial of

liability), but the plaintiffs, by reason of the burden of motor accident cases, were unable to accept a reduced sum. The evidence was that (*a*) the defendant was treated from the 13th July to the 20th August, 1931, and (as a road accident case) he was regarded as a paying patient, in pursuance of a resolution passed in September, 1928; (*b*) in August, 1931, he was asked to pay 25 guineas, viz., 13 guineas for the hospital, 10 guineas for the surgeon, and 2 guineas for the radiologist; (*c*) in December, 1931, the defendant stated that the above items were being claimed (as special damage) in his action against another motorist; (*d*) the latter's insurance company had paid £520, but the defendant still admitted liability for 10 guineas only. The defendant's case was that (1) when he was in the hospital there were two classes of patients (private and paying) and he had not agreed to become one of the latter; (2) it was not until March, 1933, that a resolution was passed altering private to paying patients; (3) by reason of the proviso to s. 36 (2) of the Road Traffic Act, 1930, the result was to prevent the hospital from recovering anything from his insurance company; (4) as a member of the Hospital Saturday Committee, and also as a voluntary contributor, he expected to receive free treatment. His Honour Judge Roope Reeve, K.C., observed that the only question was whether the charge should have been 2½ or 3 guineas a week. As the latter amount was held to be fair and reasonable, judgment was given for the plaintiffs, with costs.

In *Stretton* v. *Hancock*, the claim was for £10 10s. for professional services (and £2 2s. for a radiologist's fee) in the following circumstances: (1) the plaintiff was an honorary surgeon at the Kidderminster General Hospital, to which the defendant was admitted after a motor accident; (2) notices in the wards stated that such cases were treated as paying or private patients, and the rules required paying patients to make their own arrangements as to fees, viz., for attendance by the honorary surgeon under whose charge they were admitted; (3) the plaintiff had had to see to the X-ray, order the splints to be removed, and make sure that the leg was properly set; (4) the defendant was aware that he was the patient of the plaintiff, whose name was over the bed, and who would also have assumed responsibility if damages had been claimed for negligent treatment. The defendant's case was that (*a*) his leg was set by the house surgeon, the dressings were done by the sister (who also took the radiograph) and the splints were removed by a nurse; (*b*) the defendant was not aware that he was the patient of the plaintiff. It transpired that (1) the house surgeon was on the hospital staff, and that fees could only be charged by the honorary staff; (2) the radiologist rarely took X-ray photographs himself, but their interpretation was a life-long study, and his fees were not paid by the hospital. His Honour Judge Roope Reeve, K.C., observed that the total sum of 12 guineas was a moderate charge for the hospital services, but he could not take into account the whole benefit received by the defendant, and award payment therefor to the plaintiff. It was necessary to consider the extent to which the plaintiff had performed the services constituting such benefit, and, in view of the services rendered by those on the staff, the amount due to the plaintiff was 5 guineas. Judgment was given accordingly, with costs. It was also held that the plaintiff (not being liable for the fee of the radiologist) could not sue on his behalf.

Reviews.

Practical Auditing. By Ernest Evan Spicer, F.C.A., and Ernest C. Pegler, F.C.A. Sixth Edition, 1933, edited by Walter W. Bigg, F.C.A., F.S.A.A. Royal 8vo. pp. xx and (with Index) 616. London: H.F.L. (Publishers), Ltd. 21s. net.

This work has been completely reviewed and the chapter dealing with the liability of auditors has been enlarged. The chapter on Investigations has been similarly treated.

One of the most useful parts of the work is that dealing with the audit of the accounts of local authorities. This has been revised by the Borough Accountant of Croydon.

This is a thoroughly practical book and can be warmly recommended to the practitioner.

Outlines of Central Government, including the Judicial System of England. By John J. Clarke, M.A., F.S.S., of Gray's Inn and the Northern Circuit, Barrister-at-Law, Legal Member of the Town Planning Institute. Sixth Edition. 1934. Crown 8vo. pp. x and (with Index) 320. London: Sir Isaac Pitman and Sons, Ltd. 5s. net.

In spite of its title this work is an exceptionally full and detailed account of the machinery and rationale of the Central Government of Great Britain, systematically planned in such a way as to be of the utmost utility to all who, for whatever reason, seek to acquaint themselves with the different aspects of this absorbing subject. The new chapters on Social and Political Theory are of considerable topical interest, more particularly the able chapter on Administrative law, which sets out with great clarity the unanimous findings of the Committee on Ministers' Powers, which issued its report in May, 1932, and the important House of Lords decision in *R.* v. *Minister of Health: ex parte Yaffe* [1931] A.C. 494, on the same subject. The new chapter on "National Indebtedness," including a summary of the proceedings of the World Economic Conference, 1933, also merits special mention. The form and subject matter of this deservedly popular work has been substantially retained and brought up to date in the present edition.

Books Received.

The Business Transfer Agent and Trade Valuer. By J. Otway Cave. 1934. Demy 8vo. pp. xii and (with Index) 171. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

The Estates Gazette Digest of Cases, 1933. Edited by Donald McIntyre, B.A., LL.B., of Gray's Inn, and the South-Eastern Circuit, Barrister-at-Law. 1934. Demy 8vo. pp. xi and (with Index) 424. London: The Estates Gazette, Ltd. 15s. 6d., post free.

Alteration of Share Capital. By P. Lea Reed, A.I.S.A., and C. Wright, A.C.A. 1934. Demy 8vo. pp. viii and (with Index) 143. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

The Acts Relating to the Income Tax. By the late Stephen Dowell, M.A. Second Supplement to the Ninth Edition, 1933. By W. B. Blatch, B.A. (Oxon), Assistant Solicitor of Inland Revenue, and T. Mac. D. Baker. Demy 8vo. pp. xlvi and (with Index) 589. London: H.M. Stationery Office. £1 1s. net, postage extra.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* The Solicitors' Journal.]

Local Authorities and Searches.

Sir,—We have read with interest Messrs. W. R. Bennett and Co.'s letter in your issue of the 20th inst. The system of these searches with the local authorities is most unsatisfactory. The fee for the information is either paid to the council or the clerk to the council. Who is responsible for the accuracy of such information, and any damage arising from inaccuracies?

In our opinion there is only one place at which searches should be made, not only in respect of local land charges searches, but also county council, and that is at the Land Registry, which is the proper place for all charges to be registered.

A. E. Hamlin, Brown & Co.

Soho Square, W.1.
24th January.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Intending Assignee in Possession of House—Recovery of Rent.

Q. 2921. By a lease dated January, 1931, A demised a house to B for three years expiring on 25th March, 1934, the rent being reserved in advance on the usual quarter days (the house is decontrolled and the rateable value in 1931 exceeded £13). In June, 1933, B applied to A for licence to assign the lease to C, which licence was granted. B quitted and C took possession; C paid to A the quarter's rent due in advance on 24th June, 1933. C, however, refuses to take a formal assignment from B. He also refuses to pay the quarter's rent due in advance on 29th September, 1933, but has made weekly payments which have been accepted by A as on account of the quarter's rent due in advance on 29th September, 1933. B is not worth suing. To recover the rent in arrear, can A (i) distrain on C's goods on the premises, and/or (ii) sue C for the rent? Further, can A enforce against C the other covenants in the lease, or, alternatively, take proceedings for possession against C? A could, of course, obtain an assignment or surrender from B, but this would be dangerous if C has in fact and in law any legal position *vis-à-vis* A.

A. A cannot directly enforce against C the covenants in the lease (including the covenant for payment of rent), since C is not an assignee. Assuming the weekly payments made by C have not been received by A in such manner as would entitle the county court judge to hold that A had accepted C as a weekly tenant in the place of B, A's remedy appears to be either to distrain or to bring an action for forfeiture under the proviso for re-entry, if such a proviso appears in the lease in the usual form. Unless C can prove that by some subsequent arrangement with B he has become B's sub-tenant *and* that the creation of a sub-tenancy is not prohibited by the lease, C could not claim exemption of his goods under the Law of Distress Amendment Act, 1908.

Charge for Making up Private Street.

Q. 2922. A was the owner of Blackacre. A provisional apportionment in respect of road-making expenses in connection with Blackacre was served by the local authority on A in August, 1932, to which A made no objection. A died in March, 1933, having by his will settled Blackacre on B for life and after her death to C (an infant) in fee simple. The residue of his estate was given to C and five other persons equally. The road-making works were completed by the local authority in August, 1933, costing £60. The final apportionment was made by the surveyor in August, 1933, and the account rendered in November, 1933. A vesting assent in favour of B was made in September, 1933.

(1) Are these expenses chargeable wholly against C's share of the residuary estate, or should the residuary legatees bear these expenses equally? The cases *R.* v. *Swindon L.B.* (1879); *Millard* [1905] 1 K.B. 60, show the owner at the time of the completion of the works to be the "owner in default" and so C would be liable for the whole expense. The works appear to be improvements under S.L.A., 1925, Sched. 3, pt. I (ix), not liable to be replaced by instalments.

(2) Are these expenses a debt incurred by A which could be deducted for the purposes of estate duty? The local authority has no right of action until one month after the rendering of the account and then it would seem only against the owner at the time of the completion of the works.

A. (1) It is presumed from the wording of the question that the street was made up under the Private Street Works Act, 1892. The apportioned sum becomes on completion of the work a first charge on the property (s. 13). If B as tenant for life pays, she is entitled to a charge of £60 for her own benefit. If B borrows the money from and charges the land to a third party, as she can do, she must keep down the interest. C can advance the money on such a charge by arrangement with B, but if he simply pays the money without any agreement with B, the payment would seem to relieve B of the obligation to pay interest. It is not considered that the person charging or taking a charge is bound to act under s. 17 of the Private Street Works Act, 1892, and repay by instalments over twenty years. See *Re Smith's Settled Estates* [1901] 1 Ch. 689; *Re Pizzi* [1907] 1 Ch. 67.

(2) It is not considered that the expenses constituted a deductible debt, but, in valuing the property, account would be taken of the contingent liability. In effect the value would be assessed at £60 less than that of the same property regarded as fronting a made-up road repairable by the local authority.

Ground Rent in Arrear.

Q. 2923. A granted a lease of a house to the predecessor of B for a term of ninety-nine years at the yearly ground rent of £4 10s. B, who resides in the Irish Free State, has fallen into arrears of over three years of this ground rent, and has made no payment, despite repeated applications. The house is let by B on probably a quarterly tenancy. I am acting for A. I am informed at the county court that service cannot be effected in the Irish Free State, and apparently the only method is to proceed for forfeiture of the lease. I should be obliged if you would let me have your views on the best practical method of obtaining satisfaction.

A. The obvious course appears to be to serve a notice under s. 6 of the Law of Distress Amendment Act, 1908, on B's tenant, either by registered post or personally: *Jarvis* v. *Hemmings* [1912] 1 Ch. 462, stating the amount of arrears of ground rent, and requiring all future payments of rent, whether the same has already accrued due or not, to be paid to A until the arrears of ground rent shall have been duly paid. There is no provision for adding on costs. Alternatively, A might take proceedings for forfeiture in the High Court, and get an order for substituted service, but this is not advised under the circumstances.

"Private Dwelling-house"—Use by Doctor for Professional Purposes.

Q. 2924. I should be glad if you would tell me as soon as possible whether in your opinion the carrying on by a doctor of his practice and the affixing of a brass plate to the house would be such a breach of a covenant "not to use any house or bungalow when erected on the said land for any purpose other than as and for a private dwelling-house," as would enable a person entitled to the benefit of the covenant to obtain an injunction and/or damages. Reference to authorities would oblige.

A. We are not aware of any reported case which is on all fours. The two nearest cases appear to be *Wilkinson* v. *Rogers* (1863), 12 W.R. 119, where it was held that the putting up of a blind in window marked "Coal office" and the receipt there

of orders was a breach of such a covenant; and *Patman* v. *Harland* (1881), 17 Ch. D. 353, where Jessel, M.R., decided that the erection of a studio in the garden was a breach of a covenant, that a private dwelling-house *only* should be erected, but refused a mandatory order for removal of the building before trial on the ground that in the interval the building might be altered so as to be an adjunct of a private dwelling-house only. The opinion is given that the person entitled to the benefit of the covenant would probably not succeed in an action if the only evidence tendered was that of the affixing of the brass plate, but that the actual use of the house or part of it for the purpose of a surgery of a general practitioner for attendance on visiting patients is a breach of the covenant.

Repair of Memorial Window—Whose Liability?

Q. 2925. A question has arisen in regard to liability for repair of a memorial window in a church. In the case in question the window was given, about fifty years ago, by a private individual in memory of his wife, the church being one for the repair of which the Ecclesiastical Commissioners are responsible. The church now requires extensive repairs—the window itself being cracked, and in urgent need of attention, and the donor's representatives have been approached by the church authorities with a view to their meeting the cost of repair. Will you kindly give us your opinion whether the Ecclesiastical Commissioners or the donor's representatives are liable for the repair of the window, and if not, whether any other person or authority is liable.

A. A memorial window placed in a church becomes an integral part of the church fabric and in the absence of any special provision made for its upkeep the cost of repair falls upon the authority responsible for the repair of the church generally. In this case, as you inform us, that means the Ecclesiastical Commissioners; generally this liability falls now upon the Parochial Church Council to whom it has been transferred under modern ecclesiastical legislation from the churchwardens. There is no liability upon representatives of the donor of the window; but when an event like this happens and the church authorities are seeking funds to carry out repairs, it is quite usual for relatives of the person to whose memory the window was dedicated to be invited to undertake to defray the cost of restoring or repairing it.

Agricultural Credits Act, 1928—Landlord's Position upon Foreclosure Before Rent has Accrued Due.

Q. 2926. A landlord has agreed to let certain agricultural premises on a yearly tenancy. It is desired to extend the landlord's right of distress further than that given under s. 8 (7) of the Agricultural Credits Act, 1928. Can you suggest any means by which the landlord could exercise his right of distress if a company holding a charge under the Act forecloses between two rent days. We had intended to insert a clause in the agreement determining the tenancy on the tenant causing or permitting a chargee to foreclose.

A. Is it quite certain that any extension of the landlord's rights beyond what s. 8 (7) lays down is necessary? So far as we are aware this sub-section has never been judicially interpreted; but do not the words "liable to distress" cover all agricultural assets which might at any appropriate time be seized under distress for rent, rates or taxes? Must not the company or bank foreclosing make provision for any rent, rates or taxes accruing due? If not, the insertion in the lease of a provision that the rent is to be deemed to have accrued due daily and to be payable on demand in certain events, would appear to be the only course to adopt. It is to be observed that only agricultural charges on farming stock and other agricultural assets may be registered under the statute. The furniture, etc., in the farmstead, for example, remains at the mercy of the landlord.

Master's Liability for Servant's Torts.

Q. 2927. An errand boy is in the habit of using his master's push-cycle to ride home to his dinner, such user being not at the request or with the approval of the master, who has, however, been in the habit of turning a "blind eye" upon the practice. On one occasion the boy negligently collides with a pedestrian. Is the latter in such circumstances entitled to prefer a claim for damages against the master?

A. The accident was in the errand boy's own time, viz., his dinner hour, but (on the other hand) the push-cycle belonged to the master, who acquiesced in its user by the errand boy. As the day's work was not over, and the errand boy was under a duty to return (within a reasonable period) the accident is deemed to have occurred within the scope of the errand boy's employment. Without analysing the master's motives, it may be assumed that he only allowed his cycle to be so used, on the assumption that the boy would thereby be enabled to perform his duties more efficiently. The boy was not engaged on a journey or enterprise of his own, and the case is therefore distinguishable from *Britt* v. *Galmoye and Nevill* (1928), 44 T.L.R. 294. The pedestrian is therefore entitled to prefer a claim for damages against the master.

Obituary.

Mr. A. R. Besant.

Mr. Arthur Robert Besant, solicitor, senior partner in the firm of Messrs. Keene, Marsland, Bryden & Besant, of Seething-lane, E.C., and Worthing, died on Monday, 12th February. Mr. Besant was admitted a solicitor in 1894.

Mr. F. W. Brown.

Mr. Frederick William Brown, solicitor, senior partner in the firm of Messrs. Brown, Turner, Compton Carr & Co., of Clement's Inn, W.C., and Southport, died at Southport on Saturday, 10th February, at the age of sixty-nine. Mr. Brown, who was admitted a solicitor in 1888, was Registrar of the County Courts at Southport and Ormskirk. He was Mayor of Southport in 1903.

Mr. T. G. Dobbs.

Mr. Thomas George Dobbs, solicitor, senior partner in the firm of Messrs. T. G. Dobbs & Broom, of Worcester, died at his home at Malvern Link on Wednesday, 31st January. Mr. Dobbs, who was educated at King's School, Worcester, was admitted a solicitor in 1890. He was President of the Worcester and Worcestershire Incorporated Law Society in 1929 and 1930.

Mr. H. H. Enfield.

Mr. Henry Houghton Enfield, M.A. Cantab., solicitor, of Nottingham, died at his home at Bramscote on Friday, 9th February, in his eightieth year. Mr. Enfield, who was admitted a solicitor in 1880, was President of the Nottingham Law Society in 1913, a position which had been occupied by his father in 1876. He practised in partnership with Mr. H. A. Dowson as Messrs. Enfield & Son, until last November, when Mr. Enfield retired from business.

Mr. A. E. Ratcliffe.

Mr. Albert Edward Ratcliffe, solicitor, senior partner in the firm of Messrs. Grylls, Hill & Hill, of Helston, Cornwall, died at Helston on Saturday, 10th February, at the age of seventy. Mr. Ratcliffe, who was admitted a solicitor in 1885, had been Councillor and Alderman of the Borough of Helston, and was Mayor in 1893 and 1894. He was also Clerk to the Helston Rural District Council and to the District Rating Committee.

To-day and Yesterday.

LEGAL CALENDAR.

12 FEBRUARY.—On the 12th February, 1806, Arthur Pigott became Attorney-General in the Ministry of "All the Talents," and Samuel Romilly became Solicitor-General. Both were knighted. "Never," wrote the latter, "was any city trader who carried up an address to His Majesty more anxious to obtain than we were to escape this honour. We applied to Lord Dartmouth, the Lord-in-Waiting, to Lord Grenville, Lord Spencer, and everybody on whom we thought it might depend to deprecate the ceremony which awaited us. But the King was inflexible . . . Every man who arrives at these situations must submit to the humiliation of having inflicted on him that which is called, but is considered neither by himself nor any other person, an honour."

13 FEBRUARY.—That stoutly Royalist judge, Sir Francis Crawley, died on the 13th February, 1649, barely surviving the King whom he had served so faithfully.

14 FEBRUARY.—"I took Mr. Hill to my Lord Chancellor's new house that is building and went with trouble up to the top of it, and there is there the noblest prospect that ever I saw in my life, Greenwich being nothing to it; and in everything is a beautiful house and most strongly built in every respect; and as if, as it hath, it had the Chancellor for its master." Thus Samuel Pepys spent a portion of the 14th February, 1666. This great house which Lord Clarendon built for himself both drained his resources and excited popular prejudice against him.

15 FEBRUARY.—Henry Deane, Archbishop of Canterbury, died at Lambeth on the 15th February, 1503. He had held the Great Seal as Lord Keeper from 1500 to 1502, and previously he had been Chancellor of Ireland. It was he who negotiated the marriage between Margaret, daughter of Henry VII, and James IV of Scotland and who officiated at that fateful nuptial ceremony between little Prince Arthur and Catherine of Aragon. At Canterbury no trace remains of the "flat stone of marble" under which he was buried.

16 FEBRUARY.—Sir George Croke, who died on the 16th February, 1642, is best remembered by the three volumes of law reports which bear his name. He was raised to the Bench in 1625 "and having skilfully and faithfully served in that place above sixteen years, and by his exceeding care and pains in that service, worne out his weak and aged body, humbly petitioned His Majesty that he might render up the office," being then eighty years old.

17 FEBRUARY.—The perils of a bookseller are various. Although John Hatchard's stock was such that (in the words of the Attorney-General) "no purchaser who leaves his shop can make a selection which has not the object of making him a better man than he was before the purchase," he found himself on trial for libel on the 17th February, 1817. He had been unfortunate enough to sell some copies of the Tenth Report of the Directors of the African Institution, which contained a story of how an unnamed aide-de-camp had thrashed a negro woman, and subsequently insulted the Governor of Antigua, and how, when he was indicted, the grand jury of the island had refused to find a true bill against him. The Legislature of Antigua prosecuted Hatchard in the King's Bench, where he was found guilty and fined £100.

18 FEBRUARY.—Sir Robert Atkyns died at his manor of Saperton, near Cirencester, on the 18th February, 1710, after half an hour's indisposition. He had been called to the Bar at Lincoln's Inn in 1645, following his father and his grandfather who had both attained legal honours there. From 1672 to 1679 he was a Justice of the Common Pleas, after which a combination of circumstances practically forced his retirement. Ten years later, however, he succeeded his brother as Chief Baron of the Exchequer.

THE WEEK'S PERSONALITY.

So stout a Royalist was Sir Francis Crawley that his progress through the law was compared by one of the Parliamentary leaders to "that of a diligent spy through a country into which he meant to conduct an enemy." It was said that "his dexterity in logic at the university promised him an able pleader at the Inns of Court," and, in due course, he was raised to the Bench of the Common Pleas in 1632. In *Hampden's Case*, he went so far as to declare that "ship-money was so inherent a right in the crown that it would not be in the power of Parliament to take it away." Naturally, he was among the judges impeached when the Long Parliament started its proceedings in 1641, and in the following year, along with most of the judges, he joined King Charles at Oxford, where he was given the degree of Doctor of Civil Law. Already Parliament had restrained him from going circuit, and in 1645, it considered it necessary to disable him and four others "from being judges, as though they were dead." It is a dramatic coincidence that he should have survived his king only a fortnight, for Charles was executed in Whitehall on the 30th January, 1649, and this faithful servant died a fortnight later.

STYLE IN LAW.

Style, as defined by Lord Hailsham to the National Book Trade Provident Society, consists in the power of saying precisely and without waste of words what you mean. He declared that if business men and law makers had the gift, there would be less work for lawyers in putting them right, and claimed for the judgments in the law reports many superlative examples of felicitous expression. It is to be feared that he would not award full marks to Chief Justice Crozier's elaborate effusions which may be studied in the American reports. Thus, in *Calcraft* v. *The State*, in observing that the jury is not bound in law to disbelieve the evidence of a prostitute, the learned judge declared that it should not be said that such a woman "pours out from her heart at Venus's shrine with her virtue every other good quality with which in our thoughts we endow her sex." Knight-Bruce, L.J., on the other hand, would certainly win honourable mention for the irony which he used so skilfully, for example, in *Barrow* v. *Barrow*, in describing the spouses who for only sixty days "lived as well as quarrelled together, but, at the end of that period, parted, exchanging a state of conflict which, though continual, was merely domestic for the more conspicuous, more disciplined and more effectual warfare of Lincoln's Inn and Doctors' Commons." Among judicial stylists who should not be forgotten are Lords Westbury, Bowen and Sumner.

LORD CARSON'S BIRTHDAY.

Lord Carson's eightieth birthday brings with it a touch of surprise in the reminder that one so active and vital should be a living link with institutions which the passage of a few years has made to appear immemorially ancient. When he was called to the Bar, the Exchequer, Queen's Bench and Common Pleas still administered the Common Law in Dublin, though indeed in the shadow of approaching dissolution. The Library system still flourished in unabated primitive virility; the members of the Bar crowded together there in pandemonium, laughing, gossiping, working, waiting for the voice of the crier, Bramley, an ex-trooper, who called the names of those whom solicitors asked for at the door. The old bag-woman still carried or wheeled brief-bags and great loads of books from the barristers' homes to the courts. Wretched looking they were, but honest and reliable, and only one delay is recorded, when some bags were found to have spent the night at a public-house on the way from the courts. Not long after Carson's call, the duties of these poor old souls were taken over by a horse-drawn van—the "Legal Express."

Notes of Cases.

House of Lords.

Neumann *v.* Inland Revenue Commissioners.

1st February, 1934.

SUR-TAX—COMPANY—DIVIDEND ON PROFITS FROM RENTS—AMOUNT OF ASSESSMENT—SCHEDULE D—RULE 20 OF GENERAL RULES—FINANCE ACT, 1927, s. 39—FINANCE ACT, 1931, s. 7.

This appeal raised the question whether the appellant was required to include as part of his total income for purposes of sur-tax a dividend paid to him by the Salisbury House Estate, Ltd., in respect of his shares in the company, which owned and managed a block of flats, the company being assessed under Sched. A to income tax on the gross value of the building. On 4th April, 1930, the appellant received a cheque for £4,275 in respect of an interim dividend, free of tax, equivalent to a gross amount of £5,343. Finlay, J., held that in respect of the dividend in question nothing at all ought to have been included in the assessment. The Court of Appeal held that the sum of £4,275, and not £5,343, ought to have been so included. The appellant who now appealed submitted that he was not assessable to sur-tax in that amount or at all.

Lord TOMLIN, in giving judgment, said that the case was a difficult one, and the difficulty in part arose from the fact that the amendments from time to time made to the Income Tax Acts, directed, as they frequently were, to stopping an exit through the net of taxation freshly disclosed, were too often framed without sufficient regard to the basic scheme on which the Acts originally rested. He might say at once that, having regard to the view which he had expressed as to the general scheme and operation of the Acts with regard to dividends, he was unable to accept the view that dividends as such were taxable under Sched. D. He did not think they were. He thought that it was more accurate to say, with Rowlatt, J., that there is strictly speaking no tax upon dividends at all. They were, however, under r. 20 of the General Rules and s. 39 of the Finance Act, 1927, and apart altogether from s. 7 of the Finance Act, 1931, liable, where the dividends were made out of profits or gains charged on the company, to suffer deduction of a sum equal to tax at the standard rate on the gross amount of the dividends, and in such cases the gross amount of the dividend was the income tax income to be taken into account whether it were for computing the amount of tax which the shareholder was entitled to have returned, or for fixing his liability to sur-tax. In the present case dividends had been paid out of rents arising from hereditaments assessed to tax under Sched. A, the rents exceeding the annual value fixed by the assessments. In his opinion the rents were profits and gains to be charged on the company within the meaning of r. 20. The fact that the measure of liability in respect of them was an artificial one did not render the rents any the less the things to be charged. It followed, therefore, that the dividend was one from which deduction was authorised, and, having regard to s. 39, at the standard rate for the year of payment in respect of the whole dividend. That result followed from r. 20 and s. 39 irrespective of s. 7 (1) of the Finance Act, 1931. It followed that the dividend in question was part of the income tax income of the appellant to be taken into account in fixing his liability for sur-tax. In his Lordship's opinion for the reasons which he had endeavoured to indicate, but which (he stated) did not accord in all respects with those relied on by the Court of Appeal, both the appeal and the cross appeal failed and should be dismissed, with costs.

Lord WARRINGTON OF CLYFFE and Lord WRIGHT gave judgment to the same effect.

COUNSEL: *A. M. Latter*, K.C., *Wilfrid Greene*, K.C., and *J. H. Bowe*; *The Attorney-General* (Sir Thomas Inskip, K.C.), *The Solicitor-General* (Sir Donald Somervell, K.C.), and *Reginald Hills*.

SOLICITORS: *Holmes, Son & Pott*; *Solicitor to Inland Revenue*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Pattenden *v.* Beney.

Scrutton and Maugham, L.JJ., and Talbot, J.

31st January, 1934.

ACCIDENT — DUSTMAN — GAS CYLINDERS COLLECTED — EXPLOSION—DEATH—WIDOW'S CLAIM.

Appeal from a decision of Horridge, J. (77 SOL. J. 732).

The plaintiff claimed damages from a doctor in respect of the death of her husband, a dustman. The deceased in the course of his duties collected certain gas cylinders from the defendant's house. Shortly afterwards, there was an explosion and the deceased was found suffering from injuries, of which he died. Horridge, J., gave judgment for the defendant.

SCRUTTON, L.J., in dismissing the appeal, said that, in the absence of a finding that the cylinders were dangerous when handed to the dustman, the claim failed. There was no reason to suppose that extraordinary treatment would be applied to them.

MAUGHAM, L.J., and TALBOT, J., concurred.

COUNSEL: *Cassels*, K.C., and *F. Paterson*; *Croom-Johnson*, K.C., and *H. C. Dickens*.

SOLICITORS: *R. Compton Bishop*; *Hempsons*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

R. Smith & Son *v.* Eagle Star and British Dominions Insurance Co. Ltd.

Scrutton, Slesser and Maugham, L.JJ.

1st and 2nd February, 1934.

WORKMEN'S COMPENSATION—INDUSTRIAL DISEASE—SILICOSIS SCHEME—GRADUAL PROCESS OF DISEASE—CONTRACTED DURING CURRENCY OF POLICY—EMPLOYERS COVERED.

Appeal from a decision of Roche, J. (77 SOL. J. 765).

The insurance company on the 30th June, 1927, issued a policy protecting R. Smith & Son against liability for injury or disease, "which during the continuance of this policy shall be sustained or contracted by any workman while in the employers' direct employ." A workman employed by them from March, 1928, to October, 1931, was in December, 1932, certified by the Silicosis Board as being totally disabled. The employers admitted liability. The policy had lapsed in June, 1930. On an arbitration, it was found that the disease was contracted before the lapse of the policy, but that inasmuch as it was a gradual process, it was impossible to say whether it was first contracted before or after the workman entered the service of R. Smith & Son. Roche, J., gave judgment for the employers.

SCRUTTON, L.J., dismissing the appeal, said that the matter was concluded by a letter written by the insurance company to the employers on the 28th September, 1927, in the following terms: "We confirm that your policy extends to cover any liability which may rest upon you in connection with any claims made by your employees in respect of silicosis."

SLESSER and MAUGHAM, L.JJ., concurred.

COUNSEL: *Cave*, K.C., and *Quass*; *R. Norris*.

SOLICITORS: *Davies, Arnold & Co.*; *Wainwright & Co.*, agents for *E. L. Feibusch*, of Wolverhampton.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Housing Act, 1930: Johnson *v.* Leicester Corporation.

Scrutton, Slesser and Maugham, L.JJ.

7th and 8th February, 1934.

Local Government—Demolition Order—Undertaking by Owner—Acceptance—Housing Act, 1930 (20 & 21 Geo. 5, c. 39), s. 19 (1) and (2).

Appeal from the Leicester County Court.

The court had quashed demolition orders in respect of two houses, accepting the owner's undertaking to convert them into one habitable house. The corporation appealed.

Scrutton, L.J., in dismissing the appeal, said that nothing in sub-ss. (1) and (2) of s. 19 of the Housing Act, 1930, prevented the local authority from accepting the owner's undertaking which would provide better working-class housing at a reasonable rent. His lordship said he would not decide what the position would be if there had been separate ownership. In this case, the judge was right in accepting the undertaking which the corporation might have accepted. However, as no time was limited for its execution, the case should be remitted to the judge to include in the undertaking a specified period for carrying it out.

Counsel: *H. O. O'Hagan*; *Harold Hill* and *T. Naylor*.

Solicitors: *Field, Roscoe & Co.*, agents for *Town Clerk*, Leicester; *Robinson & Bradley*, agents for *Harding & Barnett*, of Leicester.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

In re an Appeal from and an Application in respect of the Decision of H. W. Magrath.

Lord Hewart, C.J., Avory and Charles, JJ. 26th January, 1934.

Local Government—Surcharge—County Accountant's Motor Car Allowance—No detailed Statement of Expenses—Auditor's Discretion on Evidence—Appeal against Surcharge dismissed—Audit (Local Authorities) Act, 1927 (17 & 18 Geo. 5, c. 31), s. 2 (2).

This was an appeal by Peter Lee and other members of the Durham County Council for an order to quash the decision of H. W. Magrath, district auditor of No. 1 district, given on the 25th September, 1933, whereby he decided that a sum of £200, part of the motor-car allowance of £450 granted to Harry Bottomley, the county accountant, for the year ending the 31st March, 1932, should be disallowed. The appellants also asked for a declaration that, in making the payment, they acted reasonably and in the belief that their action was authorised by law. They further asked that they should be relieved from personal liability in respect of the surcharge, and that the district auditor be ordered to allow the £200 to be entered and charged in the general revenue account of the Durham County Council. It was contended on behalf of the appellants that the £450 was a reasonable allowance for the purposes for which it was given, namely, to enable the county accountant to travel about in the execution of his duties within the County of Durham. It was contended that the disallowance by the auditor was unlawful because it was an improper limitation of the exercise of the discretion for that purpose vested in the council. It was said on behalf of the auditor that the question was, what was the right sum to pay for expenses, and the duty of the county council was to pay those expenses and no more, and in the absence of detailed evidence of how much was the true expenditure he disallowed that in excess of what he considered a reasonable figure.

Lord Hewart, C.J., said that he had come to the conclusion, after careful consideration, that the order of the district auditor ought not to be quashed. It was to be observed that they were dealing not with remuneration but with the question of the allowance of expenses, and the fact which leapt to the eye on the affidavits was that no materials were placed before the district auditor to show what mileage had been travelled by the county accountant in the performance of his duties during the year in question. Not only was no record kept of the actual journeys, in spite of previous remonstrances by the district auditor, but it was apparent that the calculation of £450 did not purport to be on the footing of expenses really disbursed. He (his lordship) therefore thought that the district auditor was entitled to come to the conclusion to which he came. The district auditor said in his affidavit that he did not deny that the persons surcharged by him were acting in the belief that their action was authorised by law in paying the £450. He (his lordship) therefore thought that a declaration to that effect should be made as provided by s. 2 (2) of the Audit (Local Authorities) Act, 1927, and that they should be relieved from personal liability in respect of the surcharge. There would be no order as to the costs of the appellants; the district auditor's costs would be recovered from the county council.

Avory and Charles, JJ., gave judgment to the same effect.

Counsel: *Arthur Morley*, K.C., and *Denis H. Robson*, for the appellants; *Croom-Johnson*, K.C., and *Erskin Simes*, for the district auditors; *E. L. Mallalieu*, for two ratepayers.

Solicitors: *Sharpe, Pritchard & Co.*, for *Harold Jevons*, Durham; *Park Nelson & Co.*; *Doyle, Devonshire & Co.*, for *Molineux, McKeag & Cooper*, Newcastle-on-Tyne.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

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Societies.

United Law Society.

A meeting of the United Law Society was held on 12th February, in Middle Temple Common Room. Mr. L. F. Stemp proposed that "In the opinion of this House there is no virtue in consistency." Mr. J. A. Plowman opposed. Miss Colwill, Mrs. Burke and Messrs. Pritchard, Caplan, Holford, Gower, Hales, Johnson, Phillimore, Plowman, Hill, Vine-Hall, Burke, Wood Smith and Ball spoke, and Mr. Stemp replied. The motion was lost.

Solicitors' Benevolent Association.

The usual monthly meeting of the Directors of this Association was held at The Law Society's Hall on the 7th February, Mr. Norman T. Crombie (York) in the chair, the other Directors present being Sir E. F. Knapp-Fisher and Messrs. F. E. F. Barham, E. E. Bird, A. C. Borlase (Brighton), P. D. Botterell, C.B.E., A. J. Cash (Derby), E. R. Cook, C.B.E., T. S. Curtis, E. F. Dent, A. G. Gibson, E. B. Knight, C. W. Lee, C. G. May, R. C. Nesbitt, H. F. Plant, P. J. Skelton (Manchester) and T. Gill (Secretary). £543 was

distributed in grants to deserving cases; forty-eight new members were admitted; Mr. A. T. Keeling (London) was elected as a Director; and other general business was transacted.

The Medico-Legal Society.

An ordinary meeting of the Society will be held at 11 Chandos-street, Cavendish-square, W.1, on Thursday, the 22nd February, at 8.30 p.m., when a paper will be read by The Right Hon. Sir Lancelot Sanderson, P.C., on "Law and Order and Medicine in India in the Future," which will be followed by a discussion. Members may introduce guests to the meeting on production of the member's private card.

Law Students' Debating Society.

At a meeting of the society, held at The Law Society's Court Room, on Tuesday, 13th February (Chairman, Miss H. M. Cross), the subject for debate was: "That the case of *G. H. Myers & Co.* v. *Brent Cross Service Co.* [1934] 1 K.B. 46, was wrongly decided." Mr. D. B. Rubie opened in the affirmative, Mr. K. M. Trenholme opened in the negative; Mr. H. B. M. Falck seconded in the affirmative, Mr. D. Newman seconded in the negative. The following also spoke: Messrs. R. Vivert, H. E. Pim, W. M. Pleadwell, M. C. Batten, H. Peck, P. W. Iliff, Miss U. A. Hastie, Messrs. S. Samson, E. V. E. White. The opener having replied, and the Chairman having summed up, the motion was lost by seven votes.

Parliamentary News.

Progress of Bills.

House of Lords.

Birmingham United Hospital Bill.
Read First Time. [7th February.
Cambridge University and Town Waterworks Bill.
Read First Time. [7th February.
Contraceptives Bill.
Read Second Time. [13th February.
County Courts (Amendment) Bill.
Reported, without Amendment. [13th February.
Diseases of Fish Bill.
Read First Time. [14th February.
Lowestoft Corporation Bill.
Read Second Time. [14th February.
Middlesex County Council Bill.
Read Second Time. [14th February.
Newport Corporation (General Powers) Bill.
Read Second Time. [14th February.
Newport Extension Bill.
Read First Time. [7th February.
North Lindsey Water Bill.
Read Second Time. [14th February.
North Wales Electric Power Bill.
Read First Time. [7th February.
Sheffield Gas Bill.
Read First Time. [7th February.
Somersham Rectory Bill.
Read Second Time. [14th February.
South Devon and East Cornwall Hospital, Plymouth Royal Albert Hospital, Devonport, and Central Hospital, Plymouth (Amalgamation, &c.) Bill.
Read First Time. [7th February.
Sunderland and South Shields Water Bill.
Read First Time. [7th February.
Torquay Corporation Bill.
Read First Time. [7th February.
Tyne Improvement Bill.
Read Second Time. [14th February.
Tynemouth Corporation Bill.
Read Second Time. [14th February.
Wandsworth Borough Council Bill.
Read Second Time. [14th February.
Wantage Urban District Council Bill.
Read Second Time. [14th February.
Watchet Urban District Council Bill.
Read Second Time. [14th February.
West Gloucestershire Water Bill.
Read First Time. [7th February.
Workington Corporation Bill.
Read Second Time. [14th February.

House of Commons.

British Hydrocarbon Oils Production Bill.
Read Second Time. [8th February.
Candidates' (Local Government) Election Deposit Bill.
Read First Time. [12th February.
Cardiff Corporation Bill.
Read Second Time. [14th February.
Church House (Westminster) Bill.
Read Second Time. [14th February.
Corby (Northants) and District Water Bill.
Read Second Time. [12th February.
Fairs Bill.
Read First Time. [12th February.
Hotels and Restaurants Bill.
Read Second Time. [9th February.
Mining Industry (Welfare Fund) Bill.
Read Second Time. [8th February.
Ministry of Health Provisional Order (Rochester, Chatham, and Gillingham Joint Sewerage District) Bill.
Read Second Time. [14th February.
Poor Law (Scotland) Bill.
Read First Time. [8th February.
Rural Water Supplies Bill.
Read First Time. [13th February.
Unemployment Bill.
In Committee. [13th February.

Questions to Ministers.

MAGISTRATES' CLERKS.

Brigadier-General SPEARS asked the Home Secretary how many magistrates' clerks there are in England and Wales; and how many of these are in private practice?

Sir J. GILMOUR: There are no official figures, but I understand that there are about 850 justices' clerks, of whom about 50 are whole-time officers, the remainder being free to engage in private practice.

Brigadier-General SPEARS: Is the right hon. Gentleman aware that when the magistrates' clerk is in private practice most persons appearing before the court are actual or potential clients; and does he consider this in the best interests of justice?

Sir J. GILMOUR: I could not express an opinion on that, but quite obviously there are different circumstances. In some cases it is full-time employment; in others it is not. [8th February.

QUARTER SESSIONS (CHAIRMEN).

Mr. LUNN asked the Attorney-General whether his attention has been drawn to paragraph 66 of the second Interim Report of the Business of Courts Committee, in which it is stated that thirty-three out of sixty-five chairmen of quarter sessions are not trained in the law; and whether the Government propose to take any action in the matter?

The ATTORNEY-GENERAL (Sir Thomas Inskip): As is indicated in the paragraph to which the hon. Member refers, the justices at Quarter Sessions, with whom the appointment rests, realise the desirability of selecting a chairman or deputy chairman skilled in the law, where circumstances allow such a course. The Committee do not report in favour of any change in the law, and I do not think that any change is at present necessary or advisable. [13th February.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. ALBERT CREW be appointed Recorder of Sandwich, to succeed Sir GERVAIS RENTOUL, K.C., who has been appointed a Metropolitan Police Magistrate. Mr. Crew, who is a member of both Gray's Inn and the Middle Temple, was called to the Bar in 1908.

His Majesty the King has been pleased to approve, on the recommendation of the Lord Chancellor, the names of the following gentlemen for appointment to the rank of King's Counsel: WILLIAM HENRY CARTWRIGHT SHARP; GEORGE CLARK WILLIAMS; HUBERT JOSEPH WALLINGTON; HAROLD ALFRED HUNTER CHRISTIE; RICHARD O'SULLIVAN; Sir ROBERT WILLIAM ASKE; DAVID PATRICK MAXWELL FYFE; WILLIAM SHEPHERD MORRISON.

The India Office announces that the King has been pleased to approve the following appointments: Mr. Justice JOHN

DOUGLAS YOUNG, barrister-at-law, Puisne Judge of the Allahabad High Court, to be Chief Justice of the High Court of Judicature at Lahore in the vacancy which will occur on the approaching retirement of Rai Bahadur Sir Shadi Lal. Mr. SIDNEY BURN, Indian Civil Service, to be a Puisne Judge of the High Court of Judicature at Madras in the vacancy which will occur on 10th June next owing to the retirement of Mr. Justice Bardswell.

The Harrogate Town Council have decided to confer the freedom of the borough on Mr. J. TURNER TAYLOR, Town Clerk for thirty-seven years, in recognition of his services to the town. Mr. Taylor was admitted a solicitor in 1894.

Mr. DAVID LLEWELLYN, solicitor, of Bridgend, has been appointed clerk to the Justices at Bridgend. Mr. Llewellyn, who was admitted a solicitor in 1901, was previously deputy magistrates' clerk.

Professional Announcements.

(2s. per line.)

CERTIFIED ACCOUNTANTS' EXAMINATION RESULTS.

The results of the examinations of the London Association of Certified Accountants held in December last have just been issued. The total number of candidates who presented themselves for the examinations was 763, of which number 407 passed and 356 failed to satisfy the Examiners. Fifty-four candidates sat for the Final Examination, of whom twenty-five passed and twenty-nine failed. Three hundred and forty-four examinees sat for one or other of the two sections of the Final Examination, of whom 188 passed and 156 failed. In the Intermediate Examination, of a total of 331 sitting, 169 passed and 162 failed; whilst twenty-five Preliminary candidates passed out of thirty-four sitting. The following places of merit were awarded:—

PRELIMINARY—First Place: A. V. Robson, Driffield, E. Yorks; Second Place: S. Hotton, Hove, Sussex; Third Place: J. Glass, Hulme, Manchester, 15; Fourth Place: S. R. V. Coombes, Newton Abbot, Devon; Fifth Place (bracketed): R. G. Creecy, Catford, S.E.6, and F. A. Lipscomb, Plumstead, S.E.18.

INTERMEDIATE—First Place: A. F. Ross, Edinburgh; Second Place: W. E. Baggs, Bath; Third Place: H. Andrews, Coventry; Fourth Place: L. Todd, Clapham, S.W.4.

FINAL—First Place and Gold Medal: P. V. N. Warner, Barnes, S.W.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part I.	GROUP I. MR. JUSTICE MAUGHAM. Non-Witness.
		GROUP I.		GROUP II.	
		Mr.	Mr.	Mr.	Mr.
Feb.	19	Andrews	Blaker	*More	Ritchie
,,	20	Jones	More	*Ritchie	Andrews
,,	21	Ritchie	Hicks Beach	*Andrews	More
,,	22	Blaker	Andrews	*More	Ritchie
,,	23	More	Jones	Ritchie	Andrews
,,	24	Hicks Beach	Ritchie	Andrews	More
		MR. JUSTICE BENNETT. Witness. Part II.	MR. JUSTICE CLAUSON. Non-Witness.	MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
		Mr.	Mr.	Mr.	Mr.
Feb.	19	*Andrews	Hicks Beach	Blaker	*Jones
,,	20	More	Blaker	*Jones	*Hicks Beach
,,	21	*Ritchie	Jones	Hicks Beach	*Blaker
,,	22	Andrews	Hicks Beach	*Blaker	Jones
,,	23	*More	Blaker	Jones	*Hicks Beach
,,	24	Ritchie	Jones	Hicks Beach	Blaker

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd February, 1934.

	Div. Months.	Middle Price 14 Feb. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109¾	3 12 11	3 7 8
Consols 2½%	JAJO	76	3 5 9	—
War Loan 3½% 1952 or after ..	JD	102	3 8 8	3 7 2
Funding 4% Loan 1960-90	MN	112¼	3 11 3	3 5 10
Victory 4% Loan Av. life 29 years	MS	111	3 12 1	3 8 0
Conversion 5% Loan 1944-64 ..	MN	117¼	4 5 3	2 17 10
Conversion 4½% Loan 1940-44 ..	JJ	110	4 1 10	2 15 9
Conversion 3½% Loan 1961 or after ..	AO	102½	3 8 4	3 7 2
Conversion 3% Loan 1948-53 ..	MS	98½	3 1 1	3 2 6
Conversion 2½% Loan 1944-49 ..	AO	93¼	2 13 7	3 1 4
Local Loans 3% Stock 1912 or after ..	JAJO	89	3 7 5	—
Bank Stock	AO	350½	3 8 6	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	79½	3 9 2	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	87½	3 8 7	—
India 4½% 1950-55	MN	108½	4 2 11	3 15 7
India 3½% 1931 or after	JAJO	88	3 19 7	—
India 3% 1948 or after	JAJO	75½	3 19 6	—
Sudan 4½% 1939-73	FA	113	3 19 8	1 15 0
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Tanganyika 4% Guaranteed 1951-71	FA	109	3 13 5	3 6 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	2 18 0
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109¼	4 2 2	3 4 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	105	3 16 2	3 13 2
*Australia (Commonw'th) 3¾% 1948-53	JD	100	3 15 0	3 15 0
Canada 4% 1953-58	MS	106xd	3 15 6	3 11 6
Natal 3% 1929-49	JJ	97	3 1 10	3 5 2
New South Wales 3½% 1930-50 ..	JJ	97	3 12 2	3 15 0
New Zealand 3% 1945	AO	96	3 2 6	3 8 11
Nigeria 4% 1963	AO	107	3 14 9	3 12 3
Queensland 3½% 1950-70	JJ	97	3 12 2	3 13 0
South Africa 3½% 1953-73	JD	100	3 10 0	3 10 0
Victoria 3½% 1929-49	AO	98	3 11 5	3 13 4
W. Australia 3½% 1935-55	AO	98	3 11 5	3 12 8
CORPORATION STOCKS				
Birmingham 3% 1947 or after ..	JJ	87	3 9 0	—
Croydon 3% 1940-60	AO	95	3 3 2	3 5 9
Essex County 3½% 1952-72	JD	102	3 8 8	3 7 2
*Hull 3½% 1925-55	FA	100	3 10 0	3 10 0
Leeds 3% 1927 or after	JJ	87	3 9 0	—
Liverpool 3½% Redeemable by agreement with holders or by purchase ..	JAJO	100	3 10 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	75xd	3 6 8	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	88xd	3 8 2	—
Manchester 3% 1941 or after ..	FA	87	3 9 0	—
Metropolitan Consd. 2½% 1920-49 ..	MJSD	93xd	2 13 9	3 1 3
Metropolitan Water Board 3% "A" 1963-2003	AO	90	3 6 8	3 7 6
Do. do. 3% "B" 1934-2003 ..	MS	90xd	3 6 8	3 7 6
Do. do. 3% "E" 1953-73 ..	JJ	95	3 3 2	3 4 6
Middlesex County Council 4% 1952-72	MN	109	3 13 5	3 7 0
Do. do. 4½% 1950-70 ..	MN	114	3 18 11	3 8 0
Nottingham 3% Irredeemable ..	MN	87	3 9 0	—
Sheffield Corp. 3½% 1968	JJ	102	3 8 8	3 8 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ..	JJ	106	3 15 6	—
Gt. Western Rly. 4½% Debenture ..	JJ	117½	3 16 7	—
Gt. Western Rly. 5% Debenture ..	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge ..	FA	125½	3 19 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	124½	4 0 4	—
Gt. Western Rly. 5% Preference ..	MA	111½	4 9 8	—
Southern Rly. 4% Debenture ..	JJ	106	3 15 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3 15 1	3 12 6
Southern Rly. 5% Guaranteed ..	MA	122½	4 1 8	—
Southern Rly. 5% Preference ..	MA	111	4 10 1	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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